

1-1 By: Carona S.B. No. 1118
1-2 (In the Senate - Filed March 5, 2007; March 14, 2007, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 25, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
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1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1118 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the licensing and regulation of tow trucks, tow truck
1-11 operators, and vehicle storage facilities; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE
1-14 SECTION 1.01. Subdivisions (2), (3), and (4), Section
1-15 2303.002, Occupations Code, are amended to read as follows:

1-16 (2) "Commission" means the Texas ~~[Transportation]~~
1-17 Commission of Licensing and Regulation.

1-18 (3) "Department" means the Texas Department of
1-19 Licensing and Regulation ~~[Transportation].~~

1-20 (4) "Executive director" ~~[Director]~~ means the
1-21 executive director of the department ~~[or a person designated by the~~
1-22 ~~executive director who is not below the rank of division or special~~
1-23 ~~office director].~~

1-24 SECTION 1.02. Section 2303.051, Occupations Code, is
1-25 amended to read as follows:

1-26 Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS ~~[+~~
1-27 ~~SANCTIONS]~~. The commission shall adopt rules that:

1-28 (1) establish the requirements for a person to be
1-29 licensed to operate a vehicle storage facility to ensure that the
1-30 facility maintains adequate standards for the care of stored
1-31 vehicles; ~~[and]~~

1-32 (2) relate to the administrative sanctions that may be
1-33 imposed on a person licensed under this chapter;

1-34 (3) require an applicant for a license to submit
1-35 evidence that the applicant is in compliance with the drug testing
1-36 requirements of 49 C.F.R. Part 382, as those requirements exist on
1-37 September 1, 2007, if the requirements are applicable to the
1-38 applicant; and

1-39 (4) govern the administration of this chapter.

1-40 SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code,
1-41 is amended by adding Sections 2303.055, 2303.056, 2303.057, and
1-42 2303.058 to read as follows:

1-43 Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The
1-44 department may conduct an examination of any criminal conviction of
1-45 an applicant, including by obtaining any criminal history record
1-46 information permitted by law.

1-47 Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS.
1-48 (a) The department may enter and inspect at any time during
1-49 business hours:

1-50 (1) the place of business of any person regulated
1-51 under this chapter; or

1-52 (2) any place in which the department has reasonable
1-53 cause to believe that a license holder is in violation of this
1-54 chapter or in violation of a rule or order of the commission or
1-55 executive director.

1-56 (b) At least once every two years, the department shall
1-57 inspect a vehicle storage facility that holds a license under this
1-58 chapter.

1-59 (c) The department shall conduct additional inspections
1-60 based on a schedule of risk-based inspections using the following
1-61 criteria:

1-62 (1) the type and nature of the vehicle storage
1-63 facility;

2-1 (2) the inspection history of the vehicle storage
 2-2 facility;

2-3 (3) any history of violations involving the vehicle
 2-4 storage facility; and

2-5 (4) any other factor determined by the commission by
 2-6 rule.

2-7 (d) The vehicle storage facility shall pay a fee for each
 2-8 inspection performed under Subsection (c). The commission by rule
 2-9 shall set the amount of the fee.

2-10 Sec. 2303.057. PERSONNEL. The department may employ
 2-11 personnel necessary to administer and enforce this chapter.

2-12 Sec. 2303.058. ADVISORY BOARD. The Towing and Storage
 2-13 Advisory Board under Chapter 2308 shall advise the commission in
 2-14 adopting vehicle storage rules under this chapter.

2-15 SECTION 1.04. Subsections (a) and (b), Section 2303.102,
 2-16 Occupations Code, are amended to read as follows:

2-17 (a) The commission by rule shall determine the types of
 2-18 information to be included in an application for a license under
 2-19 this chapter on a form prescribed by the executive director.

2-20 (b) The rules adopted [~~by the commission~~] under this section
 2-21 must require the application [~~to be made under oath and~~] to list:

2-22 (1) the name and address of each partner, if the
 2-23 applicant is a partnership; and

2-24 (2) the name and address of the president, secretary,
 2-25 and treasurer of the corporation, if the applicant is a corporation
 2-26 [~~, and~~

2-27 [~~(3) each conviction of a felony, or of a misdemeanor~~
 2-28 ~~punishable by confinement in jail or by a fine exceeding \$200, that~~
 2-29 ~~was obtained against the applicant or a partner or officer of the~~
 2-30 ~~applicant in the three years preceding the date of application].~~

2-31 SECTION 1.05. Subsection (c), Section 2303.151,
 2-32 Occupations Code, is amended to read as follows:

2-33 (c) It is a defense to an action initiated by the department
 2-34 for a violation of this section that the operator of the facility
 2-35 unsuccessfully attempted in writing or electronically to obtain
 2-36 information from the governmental entity with which the vehicle is
 2-37 registered.

2-38 SECTION 1.06. Subsection (b), Section 2303.155,
 2-39 Occupations Code, is amended to read as follows:

2-40 (b) The operator of a vehicle storage facility or
 2-41 governmental vehicle storage facility may charge the owner of a
 2-42 vehicle stored or parked at the facility:

2-43 (1) a notification fee set in a reasonable amount for
 2-44 providing notice under this subchapter, including notice under
 2-45 Section 2303.154(c);

2-46 (2) an impoundment fee of \$20 for any action that:

2-47 (A) is taken by or at the direction of the owner
 2-48 or operator of the facility; and

2-49 (B) is necessary to preserve, protect, or service
 2-50 a vehicle stored or parked at the facility;

2-51 (3) a daily storage fee of:

2-52 (A) not less than \$5 and not more than \$20 for
 2-53 each day or part of a day the vehicle is stored at the facility if
 2-54 the vehicle is not longer than 25 feet; or

2-55 (B) \$35 for each day or part of a day the vehicle
 2-56 is stored at the facility if the vehicle is longer than 25 feet;
 2-57 [~~and~~]

2-58 (4) any fee that is required to be submitted to a law
 2-59 enforcement agency, the agency's authorized agent, or a
 2-60 governmental entity; and

2-61 (5) a fee in an amount set by the commission for the
 2-62 remediation, recovery, or capture of an environmental or biological
 2-63 hazard.

2-64 SECTION 1.07. Subchapter D, Chapter 2303, Occupations Code,
 2-65 is amended by adding Sections 2303.160 and 2303.161 to read as
 2-66 follows:

2-67 Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license
 2-68 holder shall establish a drug testing policy for employees of the
 2-69 vehicle storage facility operated by the license holder. A license

3-1 holder that establishes a drug testing policy under this subsection
3-2 may adopt the model drug testing policy adopted by the commission or
3-3 may use another drug testing policy.

3-4 (b) The commission by rule shall adopt a model drug testing
3-5 policy for use by license holders. The model drug testing policy
3-6 must be designed to ensure the safety of the public through
3-7 appropriate drug testing and to protect the rights of employees.
3-8 The model drug testing policy must:

3-9 (1) require at least one scheduled drug test each year
3-10 for each employee of a vehicle storage facility who has direct
3-11 contact with the public; and

3-12 (2) authorize random, unannounced drug testing for
3-13 employees described by Subdivision (1).

3-14 Sec. 2303.161. CRIMINAL BACKGROUND CHECK OF EMPLOYEES.

3-15 (a) A license holder shall establish a policy to examine the
3-16 criminal history record information of employees of the vehicle
3-17 storage facility operated by the license holder. A license holder
3-18 that establishes a criminal background check policy under this
3-19 subsection may adopt the model policy adopted by the commission or
3-20 may use another criminal background check policy.

3-21 (b) The commission by rule shall adopt a model criminal
3-22 background check policy for use by license holders. The model
3-23 criminal background check policy must be designed to ensure the
3-24 safety of the public.

3-25 SECTION 1.08. Subtitle A, Title 14, Occupations Code, is
3-26 amended by adding Chapter 2308 to read as follows:

3-27 CHAPTER 2308. VEHICLE TOWING

3-28 SUBCHAPTER A. GENERAL PROVISIONS

3-29 Sec. 2308.001. SHORT TITLE. This chapter may be cited as
3-30 the Texas Towing Act.

3-31 Sec. 2308.002. DEFINITIONS. In this chapter:

3-32 (1) "Advisory board" means the Towing and Storage
3-33 Advisory Board.

3-34 (2) "Commission" means the Texas Commission of
3-35 Licensing and Regulation.

3-36 (3) "Consent tow" means any tow of a motor vehicle
3-37 initiated by the owner or operator of the vehicle or by a person who
3-38 has possession, custody, or control of the vehicle. The term does
3-39 not include a tow of a motor vehicle initiated by a peace officer
3-40 investigating a traffic accident or a traffic incident that
3-41 involves the vehicle.

3-42 (4) "Department" means the Texas Department of
3-43 Licensing and Regulation.

3-44 (5) "Driver's license" has the meaning assigned by
3-45 Section 521.001, Transportation Code.

3-46 (6) "Nonconsent tow" means any tow of a motor vehicle
3-47 that is not a consent tow.

3-48 (7) "Parking facility" means public or private
3-49 property used, wholly or partly, for restricted or paid vehicle
3-50 parking. The term includes:

3-51 (A) a restricted space on a portion of an
3-52 otherwise unrestricted parking facility; and

3-53 (B) a commercial parking lot, a parking garage,
3-54 and a parking area serving or adjacent to a business, church,
3-55 school, home, apartment complex, property governed by a property
3-56 owners' association, or government-owned property leased to a
3-57 private person, including:

3-58 (i) a portion of the right-of-way of a
3-59 public roadway that is leased by a governmental entity to the
3-60 parking facility owner; and

3-61 (ii) the area between the facility's
3-62 property line abutting a county or municipal public roadway and the
3-63 center line of the roadway's drainage way or the curb of the
3-64 roadway, whichever is farther from the facility's property line.

3-65 (8) "Parking facility owner" means:

3-66 (A) an owner or operator of a parking facility,
3-67 including a lessee, employee, or agent of an owner or operator;

3-68 (B) a property owners' association having
3-69 control under a dedicatory instrument, as that term is defined in

4-1 Section 202.001, Property Code, over assigned or unassigned parking
4-2 areas; or

4-3 (C) a property owner having an exclusive right
4-4 under a dedicatory instrument, as that term is defined in Section
4-5 202.001, Property Code, to use a parking space.

4-6 (9) "Property owners' association" has the meaning
4-7 assigned by Section 202.001, Property Code.

4-8 (10) "Public roadway" means a public street, alley,
4-9 road, right-of-way, or other public way, including paved and
4-10 unpaved portions of the right-of-way.

4-11 (11) "Tow truck" means a motor vehicle, including a
4-12 wrecker, equipped with a mechanical device used to tow, winch, or
4-13 otherwise move another motor vehicle.

4-14 (12) "Towing company" means an individual,
4-15 association, corporation, or other legal entity that controls,
4-16 operates, or directs the operation of one or more tow trucks over a
4-17 public roadway in this state but does not include a political
4-18 subdivision of the state.

4-19 (13) "Unauthorized vehicle" means a vehicle parked,
4-20 stored, or located on a parking facility without the consent of the
4-21 parking facility owner.

4-22 (14) "Vehicle" means a device in, on, or by which a
4-23 person or property may be transported on a public roadway. The term
4-24 includes an operable or inoperable automobile, truck, motorcycle,
4-25 recreational vehicle, or trailer but does not include a device
4-26 moved by human power or used exclusively on a stationary rail or
4-27 track.

4-28 (15) "Vehicle storage facility" means a vehicle
4-29 storage facility, as defined by Section 2303.002, that is operated
4-30 by a person who holds a license issued under Chapter 2303 to operate
4-31 the facility.

4-32 Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The
4-33 department shall study the fees charged by license and permit
4-34 holders for nonconsent tows, compliance of license and permit
4-35 holders with local regulations governing towing fees, and consumer
4-36 complaints related to fees for nonconsent tows. Not later than
4-37 January 1, 2009, the department shall report to the legislature the
4-38 findings of the study, including any recommendations for state
4-39 regulation of towing fees.

4-40 (b) This section expires September 1, 2009.

4-41 [Sections 2308.004-2308.050 reserved for expansion]

4-42 SUBCHAPTER B. ADVISORY BOARD

4-43 Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The
4-44 advisory board consists of the following members appointed by the
4-45 presiding officer of the commission with the approval of the
4-46 commission:

4-47 (1) one representative of a towing company operating
4-48 in a city with a population of less than one million;

4-49 (2) one representative of a towing company operating
4-50 in a city with a population of one million or more;

4-51 (3) one owner of a vehicle storage facility located in
4-52 a city with a population of less than one million;

4-53 (4) one owner of a vehicle storage facility located in
4-54 a city with a population of one million or more;

4-55 (5) one parking facility owner;

4-56 (6) one law enforcement officer from a city with a
4-57 population of less than one million; and

4-58 (7) one law enforcement officer from a city with a
4-59 population of one million or more.

4-60 (b) The advisory board must include representation for each
4-61 classification of towing.

4-62 (c) An appointment to the advisory board shall be made
4-63 without regard to the race, color, disability, sex, religion, age,
4-64 or national origin of the appointee.

4-65 Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board
4-66 members serve terms of six years, with the terms of two or three
4-67 members, as appropriate, expiring on February 1 of each
4-68 odd-numbered year.

4-69 (b) A member may not serve more than two full consecutive

5-1 terms.

5-2 (c) If a vacancy occurs during a term, the presiding officer
 5-3 of the commission shall appoint a replacement who meets the
 5-4 qualifications of the vacated position to serve for the remainder
 5-5 of the term.

5-6 Sec. 2308.053. PRESIDING OFFICER. The presiding officer of
 5-7 the commission shall appoint one of the advisory board members to
 5-8 serve as presiding officer of the advisory board for a term of one
 5-9 year. The presiding officer of the advisory board may vote on any
 5-10 matter before the advisory board.

5-11 Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.
 5-12 Advisory board members may not receive compensation but are
 5-13 entitled to reimbursement for actual and necessary expenses
 5-14 incurred in performing the functions of the advisory board, subject
 5-15 to the General Appropriations Act.

5-16 Sec. 2308.055. MEETINGS. The advisory board shall meet
 5-17 twice annually and may meet at other times at the call of the
 5-18 presiding officer of the commission or the executive director.

5-19 Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive
 5-20 director or commission, as appropriate, may take action as
 5-21 necessary to administer and enforce this chapter.

5-22 Sec. 2308.057. RULES. (a) The commission shall adopt
 5-23 rules for permitting tow trucks and licensing towing operators.

5-24 (b) The commission by rule shall adopt standards of conduct
 5-25 for license and permit holders under this chapter.

5-26 Sec. 2308.058. FEES. The commission shall establish and
 5-27 collect reasonable and necessary fees in amounts sufficient to
 5-28 cover the costs of administering this chapter.

5-29 Sec. 2308.059. PERIODIC AND RISK-BASED INSPECTIONS.
 5-30 (a) The department may enter and inspect at any time during
 5-31 business hours:

5-32 (1) the place of business of any person regulated
 5-33 under this chapter; or

5-34 (2) any place in which the department has reasonable
 5-35 cause to believe that a license or permit holder is in violation of
 5-36 this chapter or in violation of a rule or order of the commission or
 5-37 executive director.

5-38 (b) The department shall conduct additional inspections
 5-39 based on a schedule of risk-based inspections using the following
 5-40 criteria:

5-41 (1) the type and nature of the towing company or
 5-42 operator;

5-43 (2) the inspection history;

5-44 (3) any history of complaints involving the towing
 5-45 company or operator; and

5-46 (4) any other factor determined by the commission by
 5-47 rule.

5-48 (c) The towing company shall pay a fee for each inspection
 5-49 performed under this section. The commission shall set the amount
 5-50 of the fee by rule.

5-51 Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The
 5-52 advisory board shall provide advice and recommendations to the
 5-53 department on technical matters relevant to the administration and
 5-54 enforcement of this chapter, including examination content,
 5-55 licensing standards, and continuing education requirements.

5-56 Sec. 2308.061. PERSONNEL. The department may employ
 5-57 personnel necessary to administer and enforce this chapter.

5-58 [Sections 2308.062-2308.100 reserved for expansion]

5-59 SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

5-60 Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used
 5-61 for consent towing or nonconsent towing on a public roadway in this
 5-62 state unless an appropriate permit has been issued for the tow truck
 5-63 under this subchapter. Each tow truck requires a separate permit.

5-64 Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An
 5-65 applicant for a permit under this subchapter must submit to the
 5-66 department:

5-67 (1) a completed application on a form prescribed by
 5-68 the executive director;

5-69 (2) evidence that the applicant is in compliance with

6-1 the drug testing requirements of 49 C.F.R. Part 382, as those
6-2 requirements exist on September 1, 2007;

6-3 (3) evidence of insurance or financial responsibility
6-4 required under this subchapter;

6-5 (4) the required fees; and

6-6 (5) any other information required by the executive
6-7 director.

6-8 (b) The department may conduct an examination of any
6-9 criminal conviction of an applicant, including by obtaining any
6-10 criminal history record information permitted by law.

6-11 Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING
6-12 PERMIT. (a) An incident management towing permit is required for
6-13 a tow truck used to perform any nonconsent tow initiated by a peace
6-14 officer, including a tow authorized under Section 545.3051,
6-15 Transportation Code.

6-16 (b) To be eligible for an incident management towing permit,
6-17 an applicant must submit evidence that:

6-18 (1) the tow truck is equipped to tow light-duty or
6-19 heavy-duty vehicles according to the manufacturer's towing
6-20 guidelines;

6-21 (2) the applicant has at least \$500,000 of liability
6-22 insurance for the tow truck; and

6-23 (3) the applicant has at least \$50,000 of cargo
6-24 insurance for the tow truck.

6-25 (c) A tow truck permitted under this section may also be
6-26 used for private property towing and consent towing.

6-27 (d) When a tow truck is used for a nonconsent tow initiated
6-28 by a peace officer under Section 545.3051, Transportation Code, the
6-29 permit holder is an agent of law enforcement and is subject to
6-30 Section 545.3051(e), Transportation Code.

6-31 Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING
6-32 PERMIT. (a) A private property towing permit is required for a tow
6-33 truck used to perform a nonconsent tow authorized by a parking
6-34 facility owner under this chapter.

6-35 (b) To be eligible for a private property towing permit, an
6-36 applicant must submit evidence that:

6-37 (1) the tow truck is equipped to tow light-duty or
6-38 heavy-duty vehicles according to the manufacturer's towing
6-39 guidelines;

6-40 (2) the applicant has at least \$300,000 of liability
6-41 insurance for the tow truck; and

6-42 (3) the applicant has at least \$50,000 of cargo
6-43 insurance for the tow truck.

6-44 (c) A tow truck permitted under this section may also be
6-45 used for consent towing but not for incident management towing.

6-46 Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT.
6-47 (a) A consent towing permit is required for a tow truck used to
6-48 perform a consent tow authorized by the vehicle owner.

6-49 (b) To be eligible for a consent towing permit, an applicant
6-50 must submit evidence that:

6-51 (1) the tow truck is equipped to tow light-duty or
6-52 heavy-duty vehicles according to the manufacturer's towing
6-53 guidelines; and

6-54 (2) the applicant has at least \$300,000 of liability
6-55 insurance for the tow truck.

6-56 (c) A tow truck permitted under this section may not be used
6-57 for nonconsent towing, including incident management towing and
6-58 private property towing.

6-59 Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT.
6-60 (a) The department shall issue a permit under this subchapter to
6-61 an applicant who meets the requirements for a permit. The
6-62 department may deny an application if the applicant has had a permit
6-63 revoked under this chapter.

6-64 (b) The department shall issue a certificate containing a
6-65 single permit number for each tow truck, regardless of whether the
6-66 permit holder holds more than one permit.

6-67 Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under
6-68 this chapter is valid for one year. The department may adopt a
6-69 system under which permits expire at different times during the

7-1 year.

7-2 (b) The department shall notify the permit holder at least
 7-3 30 days before the date a permit expires. The notice must be in
 7-4 writing and sent to the permit holder's last known address
 7-5 according to the records of the department.

7-6 (c) A permit holder may renew a permit under this chapter
 7-7 by:

7-8 (1) paying a fee for each tow truck; and

7-9 (2) providing to the department evidence of continuing
 7-10 insurance or financial responsibility in an amount required by this
 7-11 chapter.

7-12 Sec. 2308.108. CAB CARDS. (a) The department shall issue
 7-13 a cab card for each tow truck issued a permit. The cab card must:

7-14 (1) show the permit number of the certificate issued
 7-15 under Section 2308.106(b);

7-16 (2) show the type of permit issued;

7-17 (3) show the vehicle unit number;

7-18 (4) show the vehicle identification number; and

7-19 (5) contain a statement that the vehicle has been
 7-20 issued a permit under this subchapter.

7-21 (b) The department shall issue a cab card when the
 7-22 department issues or renews a permit under this subchapter.

7-23 (c) A permit holder must keep the cab card in the cab of each
 7-24 permitted tow truck.

7-25 (d) The department may order a permit holder to surrender a
 7-26 cab card if the permit is suspended or revoked under this chapter.

7-27 (e) If the department determines that the cab card system
 7-28 described by Subsections (a), (b), and (c) is not an efficient means
 7-29 of enforcing this subchapter, the executive director of the
 7-30 department by rule may adopt an alternative method that is
 7-31 accessible by law enforcement personnel in the field and provides
 7-32 for the enforcement of the permit requirements of this subchapter.

7-33 (f) A cab card or a permit issued under the alternative
 7-34 method described in Subsection (e) must be valid for the same
 7-35 duration as a certificate issued under Section 2308.106.

7-36 Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A
 7-37 permit holder shall display on each permitted tow truck:

7-38 (1) the permit holder's name;

7-39 (2) the permit holder's telephone number;

7-40 (3) the city and state where the permit holder is
 7-41 located; and

7-42 (4) the permit number for the tow truck.

7-43 (b) The information required to be displayed must be:

7-44 (1) printed in letters and numbers that are at least
 7-45 two inches high and in a color that contrasts with the color of the
 7-46 background surface; and

7-47 (2) permanently affixed in conspicuous places on both
 7-48 sides of the tow truck.

7-49 Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit
 7-50 holder shall maintain liability insurance for each tow truck
 7-51 according to the requirements under this subchapter.

7-52 (b) Unless state law permits a tow truck to be self-insured,
 7-53 any insurance required for a tow truck must be obtained from an
 7-54 insurer authorized to do business in this state.

7-55 (c) An applicant or permit holder must file with the
 7-56 department evidence of insurance as required by this subchapter.

7-57 (d) A permit holder shall keep evidence of insurance in a
 7-58 form approved by the department in the cab of each vehicle requiring
 7-59 registration the carrier operates.

7-60 [Sections 2308.111-2308.150 reserved for expansion]

7-61 SUBCHAPTER D. LICENSE REQUIREMENTS

7-62 Sec. 2308.151. LICENSE REQUIRED. A person may not perform
 7-63 towing operations unless the person holds an appropriate license
 7-64 under this subchapter.

7-65 Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
 7-66 An applicant for a license under this subchapter must submit to the
 7-67 department:

7-68 (1) a completed application on a form prescribed by
 7-69 the executive director;

8-1 (2) the required fees; and
8-2 (3) any other information required by commission rule.

8-3 Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S
8-4 LICENSE. (a) An incident management towing operator's license is
8-5 required to operate a tow truck permitted under Section 2308.103.

8-6 (b) An applicant for an incident management towing
8-7 operator's license must:

8-8 (1) be a licensed Texas driver;

8-9 (2) be certified by the National Drivers Certification
8-10 Program of the Towing and Recovery Association of America or
8-11 another certification program approved by the department;

8-12 (3) have completed a truck and bus driver/commercial
8-13 vehicle operation course approved by the department; and

8-14 (4) pass an examination.

8-15 Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

8-16 (a) A private property towing operator's license is required to
8-17 operate a tow truck permitted under Section 2308.104.

8-18 (b) An applicant for a private property towing operator's
8-19 license must:

8-20 (1) be a licensed Texas driver;

8-21 (2) be certified by the National Drivers Certification
8-22 Program of the Towing and Recovery Association of America or
8-23 another certification program approved by the department; and

8-24 (3) pass an examination.

8-25 Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A

8-26 consent towing operator's license is required to operate a tow
8-27 truck permitted under Section 2308.105.

8-28 (b) An applicant for a consent towing operator's license
8-29 must:

8-30 (1) be a licensed Texas driver; and

8-31 (2) pass an examination.

8-32 Sec. 2308.156. EXAMINATIONS. (a) Examinations required
8-33 by this subchapter shall be conducted at locations throughout the
8-34 state.

8-35 (b) The department may accept, develop, or contract for the
8-36 examinations required by this subchapter, including the
8-37 administration of the examinations. Each examination must test the
8-38 knowledge of the applicant about equipment and procedures used in
8-39 the types of towing authorized by the applicable license.

8-40 (c) The executive director of the department shall
8-41 determine uniform standards for acceptable performance on an
8-42 examination.

8-43 Sec. 2308.157. NONTRANSFERABILITY OF LICENSE. A license
8-44 issued by the executive director of the department is valid
8-45 throughout this state and is not transferable.

8-46 Sec. 2308.158. CONTINUING EDUCATION. To renew an incident
8-47 management towing operator's license, the license holder must
8-48 complete a professional development-truck and bus
8-49 driver/commercial vehicle operation course approved by the
8-50 commission.

8-51 ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

8-52 SECTION 2.01. Sections 643.201 and 643.203 through 643.208,
8-53 Transportation Code, are transferred to Chapter 2308, Occupations
8-54 Code, redesignated as Subchapter E, Chapter 2308, Occupations
8-55 Code, renumbered as Sections 2308.201 through 2308.207, Occupations
8-56 Code, and amended to read as follows:

8-57 SUBCHAPTER E. LOCAL REGULATION OF TOWING

8-58 Sec. 2308.201 [643.201]. TOW TRUCK REGULATION BY POLITICAL
8-59 SUBDIVISIONS. (a) A [In addition to the registration requirements
8-60 of Subchapter B, a] political subdivision of this state may
8-61 regulate the operation of a tow truck to the extent allowed by
8-62 federal law, except that a political subdivision may not issue a
8-63 more restrictive regulation for the use of lighting equipment on a
8-64 tow truck than is imposed by Title 7, Transportation Code [this
8-65 title].

8-66 (b) A political subdivision may not require the
8-67 registration of a tow truck that performs consent tows in the
8-68 political subdivision unless the owner of the tow truck has a place
8-69 of business in the territory of the political subdivision.

9-1 (c) A political subdivision may require the registration of
9-2 a tow truck that performs a nonconsent tow in the political
9-3 subdivision, regardless of whether the owner of the tow truck has a
9-4 place of business in the territory of the political subdivision.

9-5 (d) A political subdivision may not require a person who
9-6 holds a driver's license or commercial driver's license to obtain a
9-7 license or permit for operating a tow truck unless the person
9-8 performs nonconsent tows in the territory of the political
9-9 subdivision. A fee charged for a license or permit may not exceed
9-10 \$15.

9-11 [~~(e) In this section:~~

9-12 [~~(1) "Commercial driver's license" has the meaning~~
9-13 ~~assigned by Section 522.003.~~

9-14 [~~(2) "Consent tow" means any tow of a motor vehicle~~
9-15 ~~initiated by the owner or operator of the vehicle or by a person who~~
9-16 ~~has possession, custody, or control of the vehicle. The term does~~
9-17 ~~not include a tow of a motor vehicle initiated by a peace officer~~
9-18 ~~investigating a traffic accident or a traffic incident that~~
9-19 ~~involves the vehicle.~~

9-20 [~~(3) "Driver's license" has the meaning assigned by~~
9-21 ~~Section 521.001.~~

9-22 [~~(4) "Nonconsent tow" means any tow of a motor vehicle~~
9-23 ~~that is not a consent tow.]~~

9-24 Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL
9-25 SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a
9-26 political subdivision shall may regulate the fees that may be
9-27 charged or collected in connection with a nonconsent tow
9-28 originating in the territory of the political subdivision.

9-29 Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The
9-30 governing body of a political subdivision that regulates nonconsent
9-31 tow fees shall establish procedures by which a towing company may
9-32 request that a towing fee study be performed.

9-33 (b) The governing body of the political subdivision shall
9-34 establish or amend the allowable fees for nonconsent tows at
9-35 amounts that represent the fair value of the services of a towing
9-36 company and are reasonably related to any financial or accounting
9-37 information provided to the governing body.

9-38 Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER
9-39 AREAS. (a) In an area in which no political subdivision regulates
9-40 the fees that may be charged or collected for a nonconsent tow from
9-41 private property, a towing company may charge and collect a fee for
9-42 the tow of a motor vehicle from private property in an amount not to
9-43 exceed an amount equal to 150 percent of the fee that the towing
9-44 company would have been authorized to charge for a nonconsent tow
9-45 made at the request of a peace officer of the political subdivision
9-46 in which the private property is located.

9-47 (b) A towing company may charge and collect a fee for the tow
9-48 of a vehicle, with a gross vehicle weight rating in excess of 26,000
9-49 pounds, from private property in an amount not to exceed an amount
9-50 equal to 125 percent of the fee that the towing company would have
9-51 been authorized to charge for a nonconsent tow made at the request
9-52 of a peace officer of the political subdivision in which the private
9-53 property is located.

9-54 Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A
9-55 towing company that makes a nonconsent tow shall tow the vehicle to
9-56 a vehicle storage facility that is operated by a person who holds a
9-57 license to operate the facility under Chapter 2303, [~~Occupations~~
9-58 ~~Code~~] unless the towing company agrees to take the vehicle to a
9-59 location designated by the vehicle's owner.

9-60 (b) A storage or notification fee imposed in connection with
9-61 a motor vehicle towed to a vehicle storage facility is governed by
9-62 Chapter 2303[~~, Occupations Code~~].

9-63 (c) Except as provided by this chapter, Article 18.23, Code
9-64 of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee
9-65 may not be charged or collected without the prior written consent of
9-66 the vehicle owner or operator.

9-67 Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before
9-68 January 31 of each year, a towing company shall file with the
9-69 department a schedule showing each towing fee that the towing

10-1 company charges or collects in connection with a nonconsent tow.

10-2 (b) If a political subdivision begins regulating nonconsent
10-3 tow fees, the fees shall be reported to the department by the towing
10-4 company before the 30th day after the regulation goes into effect.

10-5 (c) Any changes in nonconsent tow fees regulated by a
10-6 political subdivision shall be reported to the department by the
10-7 towing company before the 30th day after the effective date of the
10-8 change.

10-9 (d) The department shall make towing fee schedules
10-10 available on the department's Internet website. The department
10-11 shall make no determination as to the reasonableness of a towing fee
10-12 schedule.

10-13 (e) A license or permit holder may not charge a fee for a
10-14 nonconsent tow that is greater than the fee listed in the schedule
10-15 most recently submitted to the department under this section.

10-16 Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All towing
10-17 and storage fees shall be posted at the licensed vehicle storage
10-18 facility to which the motor vehicle has been delivered and shall be
10-19 posted in view of the person who claims the vehicle.

10-20 (b) A vehicle storage facility to which a vehicle is
10-21 delivered after a nonconsent tow shall post a sign in one inch
10-22 letters stating "Nonconsent tow fees schedule available on
10-23 request." The vehicle storage facility shall provide a copy of the
10-24 nonconsent towing fees schedule to a person who requests a copy of
10-25 the fees.

10-26 SECTION 2.02. Section 684.101, Transportation Code, is
10-27 transferred to Subchapter E, Chapter 2308, Occupations Code, and
10-28 renumbered as Section 2308.208, Occupations Code, to read as
10-29 follows:

10-30 Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING
10-31 UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that
10-32 is identical to this chapter or that imposes additional
10-33 requirements that exceed the minimum standards of this chapter but
10-34 may not adopt an ordinance conflicting with this chapter.

10-35 SECTION 2.03. Sections 684.011, 684.012, 684.0125,
10-36 684.013, 684.014, and 684.015, Transportation Code, are
10-37 transferred to Chapter 2308, Occupations Code, redesignated as
10-38 Subchapter F, Chapter 2308, Transportation Code, renumbered as
10-39 Sections 2308.251 through 2308.256, Occupations Code, and amended
10-40 to read as follows:

10-41 SUBCHAPTER F. UNAUTHORIZED VEHICLES

10-42 Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED
10-43 VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle
10-44 may not leave unattended on a parking facility a vehicle that:

10-45 (1) is in or obstructs a vehicular traffic aisle,
10-46 entry, or exit of the parking facility;

10-47 (2) prevents a vehicle from exiting a parking space in
10-48 the facility;

10-49 (3) is in or obstructs a fire lane marked according to
10-50 Subsection (c); or

10-51 (4) does not display the special license plates issued
10-52 under Section 504.201, Transportation Code, or the disabled parking
10-53 placard issued under Chapter 681, Transportation Code, for a
10-54 vehicle transporting a disabled person and is in a parking space
10-55 that is designated for the exclusive use of a vehicle transporting a
10-56 disabled person.

10-57 (b) Subsection (a) does not apply to an emergency vehicle
10-58 that is owned by, or the operation of which is authorized by, a
10-59 governmental entity.

10-60 (c) If a government regulation governing the marking of a
10-61 fire lane applies to a parking facility, a fire lane in the facility
10-62 must be marked as provided by the regulation. If a government
10-63 regulation on the marking of a fire lane does not apply to the
10-64 parking facility, all curbs of fire lanes must be painted red and be
10-65 conspicuously and legibly marked with the warning "FIRE LANE--TOW
10-66 AWAY ZONE" in white letters at least three inches tall, at intervals
10-67 not exceeding 50 feet.

10-68 Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF
10-69 UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without

11-1 the consent of the owner or operator of an unauthorized vehicle,
11-2 cause the vehicle and any property on or in the vehicle to be
11-3 removed and stored at a vehicle storage facility at the vehicle
11-4 owner's or operator's expense if:

11-5 (1) signs that comply with Subchapter G [€]
11-6 prohibiting unauthorized vehicles are located on the parking
11-7 facility at the time of towing and for the preceding 24 hours and
11-8 remain installed at the time of towing;

11-9 (2) the owner or operator of the vehicle has received
11-10 actual notice from the parking facility owner that the vehicle will
11-11 be towed at the vehicle owner's or operator's expense if it is in or
11-12 not removed from an unauthorized space;

11-13 (3) the parking facility owner gives notice to the
11-14 owner or operator of the vehicle under Subsection (b); or

11-15 (4) the vehicle is:
11-16 (A) left in violation of Section 2308.251
11-17 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

11-18 (B) in or obstructing a portion of a paved
11-19 driveway or abutting public roadway used for entering or exiting
11-20 the facility and the removal is approved by a peace officer.

11-21 (b) A parking facility owner is considered to have given
11-22 notice under Subsection (a)(3) if:

11-23 (1) a conspicuous notice has been attached to the
11-24 vehicle's front windshield or, if the vehicle has no front
11-25 windshield, to a conspicuous part of the vehicle stating:

11-26 (A) that the vehicle is in a parking space in
11-27 which the vehicle is not authorized to be parked;

11-28 (B) a description of all other unauthorized areas
11-29 in the parking facility;

11-30 (C) that the vehicle will be towed at the expense
11-31 of the owner or operator of the vehicle if it remains in an
11-32 unauthorized area of the parking facility; and

11-33 (D) a telephone number that is answered 24 hours
11-34 a day to enable the owner or operator of the vehicle to locate the
11-35 vehicle; and

11-36 (2) a notice is mailed after the notice is attached to
11-37 the vehicle as provided by Subdivision (1) to the owner of the
11-38 vehicle by certified mail, return receipt requested, to the last
11-39 address shown for the owner according to the vehicle registration
11-40 records of the Texas Department of Transportation, or if the
11-41 vehicle is registered in another state, the appropriate agency of
11-42 that state.

11-43 (c) The notice under Subsection (b)(2) must:
11-44 (1) state that the vehicle is in a space in which the
11-45 vehicle is not authorized to park;

11-46 (2) describe all other unauthorized areas in the
11-47 parking facility;

11-48 (3) contain a warning that the unauthorized vehicle
11-49 will be towed at the expense of the owner or operator of the vehicle
11-50 if it is not removed from the parking facility before the 15th day
11-51 after the postmark date of the notice; and

11-52 (4) state a telephone number that is answered 24 hours
11-53 a day to enable the owner or operator to locate the vehicle.

11-54 (d) The mailing of a notice under Subsection (b)(2) is not
11-55 required if after the notice is attached under Subsection (b)(1)
11-56 the owner or operator of the vehicle leaves the vehicle in another
11-57 location where parking is unauthorized for the vehicle according to
11-58 the notice.

11-59 Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING
11-60 FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

11-61 (a) This section applies only to a parking facility serving or
11-62 adjacent to an apartment complex consisting of one or more
11-63 residential apartment units and any adjacent real property serving
11-64 the apartment complex.

11-65 (b) The owner or operator of a vehicle may not leave
11-66 unattended on a parking facility a vehicle that:

11-67 (1) obstructs a gate that is designed or intended for
11-68 the use of pedestrians or vehicles;

11-69 (2) obstructs pedestrian or vehicular access to an

12-1 area that is used for the placement of a garbage or refuse
12-2 receptacle used in common by residents of the apartment complex;

12-3 (3) is in or obstructs a restricted parking area or
12-4 parking space designated under Subchapter G [G], including a space
12-5 designated for the use of employees or maintenance personnel of the
12-6 parking facility or apartment complex;

12-7 (4) is in a tow away zone, other than a fire lane
12-8 covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly
12-9 painted and is conspicuously and legibly marked with the warning
12-10 "TOW AWAY ZONE" in contrasting letters at least three inches tall;

12-11 (5) is a semitrailer, trailer, or truck-tractor, as
12-12 defined by Chapter 502, Transportation Code, unless the owner or
12-13 operator of the vehicle is permitted under the terms of a rental or
12-14 lease agreement with the apartment complex to leave the unattended
12-15 vehicle on the parking facility; or

12-16 (6) is leaking a fluid that presents a hazard or threat
12-17 to persons or property.

12-18 (c) A parking facility owner may not have an emergency
12-19 vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from
12-20 the parking facility.

12-21 (d) Except as provided by a contract described by Subsection
12-22 (e), a parking facility owner may not have a vehicle removed from
12-23 the parking facility merely because the vehicle does not display:

12-24 (1) an unexpired license plate or registration
12-25 insignia issued for the vehicle under Chapter 502, Transportation
12-26 Code, or the vehicle registration law of another state or country;
12-27 or

12-28 (2) a valid vehicle inspection certificate issued
12-29 under Chapter 548, Transportation Code, or the vehicle inspection
12-30 law of another state or country.

12-31 (e) A contract provision providing for the removal from a
12-32 parking facility of a vehicle that does not display an unexpired
12-33 license plate or registration insignia or a valid inspection
12-34 certificate is valid only if the provision requires the owner or
12-35 operator of the vehicle to be given at least 10 days' written notice
12-36 that the vehicle will be towed from the facility at the vehicle
12-37 owner's or operator's expense if it is not removed from the parking
12-38 facility. The notice must be:

12-39 (1) delivered in person to the owner or operator of the
12-40 vehicle; or

12-41 (2) sent by certified mail, return receipt requested,
12-42 to that owner or operator.

12-43 (f) This section may not be construed:

12-44 (1) to authorize the owner or operator of a vehicle to
12-45 leave an unattended vehicle on property that is not designed or
12-46 intended for the parking of vehicles; or

12-47 (2) to limit or restrict the enforcement of Chapter
12-48 683, Transportation Code, the abandoned motor vehicle law.

12-49 (g) A provision of an apartment lease or rental agreement
12-50 entered into or renewed on or after January 1, 2004, that is in
12-51 conflict or inconsistent with this section is void and may not be
12-52 enforced.

12-53 Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY
12-54 OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking
12-55 facility owner may not have an unauthorized vehicle removed from
12-56 the facility except:

12-57 (1) as provided by this chapter or a municipal
12-58 ordinance that complies with Section 2308.208 [~~684.101~~]; or

12-59 (2) under the direction of a peace officer or the owner
12-60 or operator of the vehicle.

12-61 Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO
12-62 REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that
12-63 is insured as provided by Subsection (c) may, without the consent of
12-64 an owner or operator of an unauthorized vehicle, remove and store
12-65 the vehicle at a vehicle storage facility at the expense of the
12-66 owner or operator of the vehicle if:

12-67 (1) the towing company has received written
12-68 verification from the parking facility owner that:

12-69 (A) the parking facility owner has installed the

13-1 signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or
13-2 (B) the owner or operator received notice under
13-3 Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility
13-4 owner gave notice complying with Section 2308.252(a)(3)
13-5 [~~684.012(a)(3)~~]; or

13-6 (2) the vehicle is:
13-7 (A) left in violation of Section 2308.251
13-8 [~~684.011~~]; or

13-9 (B) in or obstructing a portion of a paved
13-10 driveway or abutting public roadway used for entering or exiting
13-11 the facility and the removal is approved by a peace officer.

13-12 (b) A towing company may not remove an unauthorized vehicle
13-13 except under:

13-14 (1) this chapter;
13-15 (2) a municipal ordinance that complies with Section
13-16 2308.208 [~~684.101~~]; or

13-17 (3) the direction of a peace officer or the owner or
13-18 operator of the vehicle.

13-19 (c) Only a towing company that is insured against liability
13-20 for property damage incurred in towing a vehicle may remove and
13-21 store an unauthorized vehicle under this section.

13-22 (d) A towing company may remove and store a vehicle under
13-23 Subsection (a) only if the parking facility owner:

13-24 (1) requests that the towing company remove and store
13-25 the specific vehicle; or

13-26 (2) has a standing written agreement with the towing
13-27 company to enforce parking restrictions in the parking facility
13-28 from which the vehicle will be removed.

13-29 Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY
13-30 TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle
13-31 storage facility accepting a vehicle that is towed under this
13-32 chapter shall within two hours after receiving the vehicle report
13-33 to the police department of the municipality in which the parking
13-34 facility is located, or, if the parking facility is not located in a
13-35 municipality having a police department, to the sheriff of the
13-36 county in which the parking facility is located:

13-37 (1) a general description of the vehicle;

13-38 (2) the state and number of the vehicle's license
13-39 plate, if any;

13-40 (3) the vehicle identification number of the vehicle,
13-41 if it can be ascertained;

13-42 (4) the location from which the vehicle was towed; and

13-43 (5) the name and location of the vehicle storage
13-44 facility where the vehicle is being stored.

13-45 (b) The report required by this section must be made by
13-46 telephone or delivered personally or by facsimile.

13-47 SECTION 2.04. Subchapter C, Chapter 684, Transportation
13-48 Code, is transferred to Chapter 2308, Occupations Code,
13-49 redesignated as Subchapter G, Chapter 2308, Occupations Code,
13-50 renumbered as Sections 2308.301 through 2308.305, Occupations
13-51 Code, and amended to read as follows:

13-52 SUBCHAPTER G [~~e~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND
13-53 DESIGNATING RESTRICTED AREAS

13-54 Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN
13-55 PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by
13-56 Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305
13-57 [~~684.035~~] an unauthorized vehicle may not be towed under Section
13-58 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting
13-59 unauthorized vehicles on a parking facility is:

13-60 (1) facing and conspicuously visible to the driver of
13-61 a vehicle that enters the facility;

13-62 (2) located:

13-63 (A) on the right or left side of each driveway or
13-64 curb-cut through which a vehicle can enter the facility, including
13-65 an entry from an alley abutting the facility; or

13-66 (B) at intervals along the entrance so that no
13-67 entrance is farther than 25 feet from a sign if:

13-68 (i) curbs, access barriers, landscaping, or
13-69 driveways do not establish definite vehicle entrances onto a

14-1 parking facility from a public roadway other than an alley; and
 14-2 (ii) the width of an entrance exceeds 35
 14-3 feet;

14-4 (3) permanently mounted on a pole, post, permanent
 14-5 wall, or permanent barrier;

14-6 (4) installed on the parking facility; and

14-7 (5) installed so that the bottom edge of the sign is no
 14-8 lower than five feet and no higher than eight feet above ground
 14-9 level.

14-10 (b) Except as provided by Section 2308.305 [~~684.035~~], an
 14-11 unauthorized vehicle may be towed under Section 2308.252(a)(1)
 14-12 [~~684.012(a)(1)~~] only if each sign prohibiting unauthorized
 14-13 vehicles:

14-14 (1) is made of weather-resistant material;

14-15 (2) is at least 18 inches wide and 24 inches tall;

14-16 (3) contains the international symbol for towing
 14-17 vehicles;

14-18 (4) contains a statement describing who may park in
 14-19 the parking facility and prohibiting all others;

14-20 (5) bears the words "Unauthorized Vehicles Will Be
 14-21 Towed at Owner's or Operator's Expense";

14-22 (6) contains a statement of the days and hours of
 14-23 towing enforcement; and

14-24 (7) contains a number, including the area code, of a
 14-25 telephone that is answered 24 hours a day to enable an owner or
 14-26 operator of a vehicle to locate the vehicle.

14-27 Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING
 14-28 HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305
 14-29 [~~684.035~~], each sign required by this chapter must comply with the
 14-30 color, layout, and lettering height requirements of this section.

14-31 (b) A bright red international towing symbol, which is a
 14-32 solid silhouette of a tow truck towing a vehicle on a generally
 14-33 rectangular white background, at least four inches in height, must
 14-34 be on the uppermost portion of a sign or on a separate sign placed
 14-35 immediately above the sign.

14-36 (c) The portion of the sign immediately below the
 14-37 international towing symbol must contain the words "Towing
 14-38 Enforced" or the information provided by Section 2308.301(b)(4)
 14-39 [~~684.031(b)(4)~~] in lettering at least two inches in height. The
 14-40 lettering on this portion of the sign must consist of white letters
 14-41 on a bright red background.

14-42 (d) Except as provided by Subsection (e), the next lower
 14-43 portion of the sign must contain the remaining information required
 14-44 by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters
 14-45 at least one inch in height on a white background.

14-46 (e) The bottommost portion of the sign must contain the
 14-47 telephone number required by Section 2308.301(b) [~~684.031(b)~~], in
 14-48 lettering at least one inch in height and may, if the facility owner
 14-49 chooses or if an applicable municipal ordinance requires, include
 14-50 the name and address of the storage facility to which an
 14-51 unauthorized vehicle will be removed. The lettering on this
 14-52 portion of the sign must consist of white letters on a bright red
 14-53 background.

14-54 Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING
 14-55 TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign
 14-56 described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~],
 14-57 the owner of a vehicle that is towed from the facility under this
 14-58 chapter must be able to locate the vehicle by calling the telephone
 14-59 number on the sign.

14-60 Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING
 14-61 SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking
 14-62 facility owner may designate one or more spaces as restricted
 14-63 parking spaces on a portion of an otherwise unrestricted parking
 14-64 facility. Instead of installing a sign at each entrance to the
 14-65 parking facility as provided by Section 2308.301(a)(2)
 14-66 [~~684.031(a)(2)~~], an owner may place a sign that prohibits
 14-67 unauthorized vehicles from parking in designated spaces and that
 14-68 otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302
 14-69 [~~684.032~~]:

15-1 (1) at the right or left side of each entrance to a
 15-2 designated area or group of parking spaces located on the
 15-3 restricted portion of the parking facility; or

15-4 (2) at the end of a restricted parking space so that
 15-5 the sign, the top of which must not be higher than seven feet above
 15-6 the ground, is in front of a vehicle that is parked in the space and
 15-7 the rear of which is at the entrance of the space.

15-8 Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS
 15-9 IN RESTRICTED AREA. (a) A parking facility owner who complies
 15-10 with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose
 15-11 further specific parking restrictions in an area to which the signs
 15-12 apply for individual spaces by installing or painting a
 15-13 weather-resistant sign or notice on a curb, pole, post, permanent
 15-14 wall, or permanent barrier so that the sign is in front of a vehicle
 15-15 that is parked in the space and the rear of which is at the entrance
 15-16 of the space.

15-17 (b) The top of the sign or notice may not be higher than
 15-18 seven feet above the ground.

15-19 (c) The sign or notice must include an indication that the
 15-20 space is reserved for a particular unit number, person, or type of
 15-21 person.

15-22 (d) The letters on the sign or notice must be at least two
 15-23 inches in height and must contrast to the color of the curb, wall,
 15-24 or barrier so they can be read during the day and at night. The
 15-25 letters are not required to be illuminated or made of reflective
 15-26 material.

15-27 SECTION 2.05. Subchapter D, Chapter 684, Transportation
 15-28 Code, is transferred to Chapter 2308, Occupations Code,
 15-29 redesignated as Subchapter H, Chapter 2308, Occupations Code,
 15-30 renumbered as Sections 2308.351 through 2308.354, Occupations
 15-31 Code, and amended to read as follows:

15-32 SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY
 15-33 AREAS

15-34 Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE
 15-35 FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a
 15-36 parking facility owner or towing company may remove an unauthorized
 15-37 vehicle parked in a leased area described by Section
 15-38 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing
 15-39 company gives notice under Section 2308.252(a)(1), (2), or (3)
 15-40 [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this
 15-41 chapter.

15-42 Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE
 15-43 FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless
 15-44 prohibited by a municipal ordinance, a parking facility owner or
 15-45 towing company may remove an unauthorized vehicle any part of which
 15-46 is in an area described by Section 2308.002(7)(B)(ii)
 15-47 [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2)
 15-48 or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing
 15-49 company has otherwise complied with this chapter.

15-50 Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL
 15-51 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.

15-52 (a) A governmental entity that has jurisdiction over a public
 15-53 roadway and that has posted one or more signs in the right-of-way
 15-54 stating that parking is prohibited in the right-of-way may:

15-55 (1) remove or contract with a towing company to remove
 15-56 an unauthorized vehicle parked in the right-of-way of the public
 15-57 roadway; or

15-58 (2) grant written permission to an abutting parking
 15-59 facility owner to:

15-60 (A) post one or more "No parking in R.O.W." signs
 15-61 along a common property line of the facility and the roadway; and

15-62 (B) remove vehicles from the right-of-way of the
 15-63 public roadway under this chapter.

15-64 (b) A sign under Subsection (a)(2) must:

15-65 (1) state that a vehicle parked in the right-of-way
 15-66 may be towed at the expense of the owner or operator of the vehicle;

15-67 (2) be placed facing the public roadway:

15-68 (A) on the parking facility owner's property not
 15-69 more than two feet from the common boundary line; and

16-1 (B) at intervals so that no point in the boundary
16-2 line is less than 25 feet from a sign posted under this subsection;
16-3 and

16-4 (3) in all other respects comply with Subchapter G
16-5 [~~E~~].

16-6 (c) After signs have been posted under Subsection (b), the
16-7 parking facility owner or a towing company may remove an
16-8 unauthorized vehicle from the right-of-way subject to the
16-9 governmental entity's written permission given under Subsection
16-10 (a)(2).

16-11 Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE
16-12 FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality
16-13 regulating the parking of vehicles in the municipality, to aid in
16-14 the enforcement of the ordinance, an employee designated by the
16-15 municipality may be authorized to:

16-16 (1) immobilize a vehicle parked in the municipality;
16-17 and

16-18 (2) remove an immobilized vehicle from a public
16-19 roadway in the municipality.

16-20 (b) A parking facility owner or towing company may not
16-21 remove a vehicle from a public roadway except under:

16-22 (1) this chapter or a municipal ordinance that
16-23 complies with Section 2308.208 [~~684.101~~]; or

16-24 (2) the direction of a peace officer or the owner or
16-25 operator of the vehicle.

16-26 SECTION 2.06. Subchapter E, Chapter 684, Transportation
16-27 Code, is transferred to Chapter 2308, Occupations Code,
16-28 redesignated as Subchapter I, Chapter 2308, Occupations Code, and
16-29 renumbered as Sections 2308.401 through 2308.407, Occupations
16-30 Code, to read as follows:

16-31 SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING
16-32 FACILITY OWNERS

16-33 Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED
16-34 FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking
16-35 facility owner may not directly or indirectly accept anything of
16-36 value from a towing company in connection with the removal of a
16-37 vehicle from a parking facility.

16-38 (b) A parking facility owner may not have a direct or
16-39 indirect monetary interest in a towing company that for
16-40 compensation removes unauthorized vehicles from a parking facility
16-41 in which the parking facility owner has an interest.

16-42 Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM
16-43 FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing
16-44 company may not directly or indirectly give anything of value to a
16-45 parking facility owner in connection with the removal of a vehicle
16-46 from a parking facility.

16-47 (b) A towing company may not have a direct or indirect
16-48 monetary interest in a parking facility from which the towing
16-49 company for compensation removes unauthorized vehicles.

16-50 Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING
16-51 FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A
16-52 parking facility owner who causes the removal of an unauthorized
16-53 vehicle is not liable for damages arising from the removal or
16-54 storage of the vehicle if the vehicle:

16-55 (1) was removed in compliance with this chapter; and

16-56 (2) is:

16-57 (A) removed by a towing company insured against
16-58 liability for property damage incurred in towing a vehicle; and

16-59 (B) stored by a vehicle storage facility insured
16-60 against liability for property damage incurred in storing a
16-61 vehicle.

16-62 Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY
16-63 OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing
16-64 company or parking facility owner who violates this chapter is
16-65 liable to the owner or operator of the vehicle that is the subject
16-66 of the violation for:

16-67 (1) damages arising from the removal or storage of the
16-68 vehicle; and

16-69 (2) towing or storage fees assessed in connection with

17-1 the vehicle's removal or storage.

17-2 (b) A vehicle's owner or operator is not required to prove
17-3 negligence of a parking facility owner or towing company to recover
17-4 under Subsection (a).

17-5 (c) A towing company or parking facility owner who
17-6 intentionally, knowingly, or recklessly violates this chapter is
17-7 liable to the owner or operator of the vehicle that is the subject
17-8 of the violation for \$300 plus three times the amount of fees
17-9 assessed in the vehicle's removal, towing, or storage.

17-10 (d) In a suit brought under this chapter, the prevailing
17-11 party is entitled to recover reasonable attorney's fees.

17-12 Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A
17-13 violation of this chapter is a misdemeanor punishable by a fine of
17-14 not less than \$500 or more than \$1,500.

17-15 Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION.
17-16 A violation of this chapter may be enjoined under Subchapter E,
17-17 Chapter 17, Business & Commerce Code.

17-18 Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT
17-19 VARIATIONS. A minor variation of a required or minimum height of a
17-20 sign or lettering is not a violation of this chapter.

17-21 SECTION 2.07. Sections 685.002 through 685.010,
17-22 Transportation Code, are transferred to Chapter 2308, Occupations
17-23 Code, redesignated as Subchapter J, Chapter 2308, Occupations Code,
17-24 renumbered as Sections 2308.451 through 2308.459, Occupations
17-25 Code, and amended to read as follows:

17-26 SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

17-27 Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND
17-28 STORAGE OF VEHICLE. (a) If in a hearing held under this chapter
17-29 the court finds that a person or law enforcement agency authorized,
17-30 with probable cause, the removal and storage in a vehicle storage
17-31 facility of a vehicle, the person who requested the hearing shall
17-32 pay the costs of the removal and storage.

17-33 (b) If in a hearing held under this chapter the court does
17-34 not find that a person or law enforcement agency authorized, with
17-35 probable cause, the removal and storage in a vehicle storage
17-36 facility of a vehicle, the person or law enforcement agency that
17-37 authorized the removal shall:

17-38 (1) pay the costs of the removal and storage; or
17-39 (2) reimburse the owner or operator for the cost of the
17-40 removal and storage paid by the owner or operator.

17-41 Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF
17-42 VEHICLE TO HEARING. The owner or operator of a vehicle that has
17-43 been removed and placed in a vehicle storage facility without the
17-44 consent of the owner or operator of the vehicle is entitled to a
17-45 hearing on whether probable cause existed for the removal and
17-46 placement.

17-47 Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under
17-48 this chapter shall be in the justice court having jurisdiction in
17-49 the precinct in which the vehicle storage facility is located.

17-50 Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR
17-51 OPERATOR. (a) If before a hearing held under this chapter the
17-52 owner or operator of a vehicle pays the costs of the vehicle's
17-53 removal or storage, the towing company or vehicle storage facility
17-54 that received the payment shall at the time of payment give the
17-55 owner or operator written notice of the person's rights under this
17-56 chapter.

17-57 (b) The operator of a vehicle storage facility that sends a
17-58 notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~]
17-59 include with that notice a notice of the person's rights under this
17-60 chapter.

17-61 Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice
17-62 under Section 2308.454 [~~685.005~~] must include:

17-63 (1) a statement of:
17-64 (A) the person's right to submit a request within
17-65 14 days for a court hearing to determine whether probable cause
17-66 existed to remove the vehicle;
17-67 (B) the information that a request for a hearing
17-68 must contain; and
17-69 (C) any filing fee for the hearing;

18-1 (2) the name, address, and telephone number of the
18-2 towing company that removed the vehicle;

18-3 (3) the name, address, and telephone number of the
18-4 vehicle storage facility in which the vehicle was placed;

18-5 (4) the name, address, and telephone number of the
18-6 person, property owner, or law enforcement agency that authorized
18-7 the removal of the vehicle; and

18-8 (5) the name, address, and telephone number of the
18-9 justice court having jurisdiction in the precinct in which the
18-10 vehicle storage facility is located.

18-11 Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except
18-12 as provided by Subsection (c), a person entitled to a hearing under
18-13 this chapter must deliver a written request for the hearing to the
18-14 court before the 14th day after the date the vehicle was removed and
18-15 placed in the vehicle storage facility, excluding Saturdays,
18-16 Sundays, and legal holidays.

18-17 (b) A request for a hearing must contain:

18-18 (1) the name, address, and telephone number of the
18-19 owner or operator of the vehicle;

18-20 (2) the location from which the vehicle was removed;

18-21 (3) the date when the vehicle was removed;

18-22 (4) the name, address, and telephone number of the
18-23 person or law enforcement agency that authorized the removal;

18-24 (5) the name, address, and telephone number of the
18-25 vehicle storage facility in which the vehicle was placed;

18-26 (6) the name, address, and telephone number of the
18-27 towing company that removed the vehicle;

18-28 (7) a copy of any receipt or notification that the
18-29 owner or operator received from the towing company or the vehicle
18-30 storage facility; and

18-31 (8) if the vehicle was removed from a parking
18-32 facility:

18-33 (A) one or more photographs that show the
18-34 location and text of any sign posted at the facility restricting
18-35 parking of vehicles; or

18-36 (B) a statement that no sign restricting parking
18-37 was posted at the parking facility.

18-38 (c) If notice was not given under Section 2308.454
18-39 [~~685.005~~], the 14-day deadline for requesting a hearing under
18-40 Subsection (a) does not apply, and the owner or operator of the
18-41 vehicle may deliver a written request for a hearing at any time.

18-42 (d) A person who fails to deliver a request in accordance
18-43 with Subsection (a) waives the right to a hearing.

18-44 Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court
18-45 may charge a filing fee of \$20 for a hearing under this chapter.

18-46 Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under
18-47 this chapter shall be held before the 10th working day after the
18-48 date the court receives the request for the hearing.

18-49 (b) The court shall notify the person who requested the
18-50 hearing and the person or law enforcement agency that authorized
18-51 the removal of the vehicle of the date, time, and place of the
18-52 hearing by registered or certified mail. The notice of the hearing
18-53 to the person or law enforcement agency that authorized the removal
18-54 of the vehicle shall include a copy of the request for hearing.

18-55 (b-1) At a hearing under this section:

18-56 (1) the burden of proof is on the person who requested
18-57 the hearing; and

18-58 (2) hearsay evidence is admissible if it is considered
18-59 otherwise reliable by the justice of the peace.

18-60 (c) The issues in a hearing under this chapter are:

18-61 (1) whether probable cause existed for the removal and
18-62 placement of the vehicle;

18-63 (2) whether a towing charge imposed or collected in
18-64 connection with the removal or placement of the vehicle was greater
18-65 than the amount authorized by the political subdivision under
18-66 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

18-67 (3) whether a towing charge imposed or collected in
18-68 connection with the removal or placement of the vehicle was greater
18-69 than the amount authorized under Section 2308.203 [~~643.204~~] or

19-1 2308.204 [~~643.205~~]; or
 19-2 (4) whether a towing charge imposed or collected in
 19-3 connection with the removal or placement of the vehicle was greater
 19-4 than the amount filed with the department under Section 2308.206
 19-5 [~~643.207~~].

19-6 (d) The court shall make written findings of fact and a
 19-7 conclusion of law.

19-8 (e) The court may award:
 19-9 (1) court costs to the prevailing party;
 19-10 (2) the reasonable cost of photographs submitted under
 19-11 Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or
 19-12 operator who is the prevailing party; and

19-13 (3) an amount equal to the amount that the towing
 19-14 charge exceeded fees regulated by a political subdivision or
 19-15 authorized by this code or by Chapter 2303[, ~~Occupations Code~~].

19-16 Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing
 19-17 under this chapter is governed by the rules of procedure applicable
 19-18 to civil cases in justice court, except that no appeal bond may be
 19-19 required by the court.

19-20 SECTION 2.08. Chapter 2308, Occupations Code, is amended by
 19-21 adding Subchapter K to read as follows:

19-22 SUBCHAPTER K. ENFORCEMENT

19-23 Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The
 19-24 commission may impose an administrative penalty on a person under
 19-25 Subchapter F, Chapter 51, regardless of whether the person holds a
 19-26 registration, permit, or license under this chapter, if the person
 19-27 violates:

- 19-28 (1) this chapter or a rule adopted under this chapter;
- 19-29 or
- 19-30 (2) a rule or order of the executive director of the
 19-31 department or commission.

19-32 (b) An administrative penalty may not be imposed unless the
 19-33 person charged with a violation is provided the opportunity for a
 19-34 hearing.

19-35 Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
 19-36 PENALTY. (a) The executive director of the department may issue a
 19-37 cease and desist order as necessary to enforce this chapter if the
 19-38 executive director determines that the action is necessary to
 19-39 prevent a violation of this chapter and to protect public health and
 19-40 safety.

19-41 (b) The attorney general or executive director may
 19-42 institute an action for an injunction or a civil penalty under this
 19-43 chapter as provided by Section 51.352.

19-44 Sec. 2308.503. CRIMINAL PENALTY; LICENSING. (a) A person
 19-45 commits an offense if the person:

- 19-46 (1) violates the permitting or licensing requirements
 19-47 of this chapter;
- 19-48 (2) performs towing without a license to perform
 19-49 towing in this state;
- 19-50 (3) employs an individual who does not hold the
 19-51 appropriate license required by this chapter; or
- 19-52 (4) falsifies a certification or training.

19-53 (b) An offense under this section is a Class C misdemeanor.

19-54 SECTION 2.09. Subsection (d), Section 643.253,
 19-55 Transportation Code, is transferred to Subchapter K, Chapter 2308,
 19-56 Occupations Code, renumbered as Section 2308.504, Occupations
 19-57 Code, and amended to read as follows:

19-58 Sec. 2308.504. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] A
 19-59 person commits an offense if the person:

- 19-60 (1) violates an ordinance, resolution, order, rule, or
 19-61 regulation of a political subdivision adopted under Section
 19-62 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~], for which the political
 19-63 subdivision does not prescribe the penalty;
- 19-64 (2) charges or collects a fee in a political
 19-65 subdivision that regulates the operation of tow trucks under
 19-66 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~] that is not
 19-67 authorized or is greater than the authorized amount of the fee;
- 19-68 (3) charges or collects a fee greater than the amount
 19-69 authorized under Section 2308.204 [~~643.205~~];

20-1 (4) charges or collects a fee in excess of the amount
20-2 filed with the department under Section 2308.206 [~~643.207~~];

20-3 (5) violates Section 2308.205 [~~643.206~~]; or

20-4 (6) violates a rule of the department applicable to a
20-5 tow truck and towing company.

20-6 (b) An offense under this section is a misdemeanor
20-7 punishable by a fine of not less than \$200 or more than \$1,000 per
20-8 violation.

20-9 ARTICLE 3. CONFORMING AMENDMENTS

20-10 SECTION 3.01. Subsection (e), Article 18.23, Code of
20-11 Criminal Procedure, is amended to read as follows:

20-12 (e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter~~
20-13 ~~685, Transportation Code~~], does not apply to a motor vehicle
20-14 directed by a law enforcement agency to be towed and stored for an
20-15 evidentiary or examination purpose.

20-16 SECTION 3.02. Subsection (a), Section 101.141, Government
20-17 Code, is amended to read as follows:

20-18 (a) A clerk of a justice court shall collect fees and costs
20-19 as follows:

20-20 (1) additional court cost in certain civil cases to
20-21 establish and maintain an alternative dispute resolution system, if
20-22 authorized by the commissioners court of a county with a population
20-23 of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies
20-24 Code) . . . not to exceed \$3;

20-25 (2) additional filing fees:

20-26 (A) to fund Dallas County civil court facilities
20-27 (Sec. 51.705, Government Code) . . . not more than \$15; and

20-28 (B) for filing any civil action or proceeding
20-29 requiring a filing fee, including an appeal, and on the filing of
20-30 any counterclaim, cross-action, intervention, interpleader, or
20-31 third-party action requiring a filing fee, to fund civil legal
20-32 services for the indigent (Sec. 133.153, Local Government Code)
20-33 . . . \$2;

20-34 (3) for filing a suit in Comal County (Sec. 152.0522,
20-35 Human Resources Code) . . . \$1.50;

20-36 (4) fee for hearing on probable cause for removal of a
20-37 vehicle and placement in a storage facility if assessed by the court
20-38 (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~])
20-39 . . . \$20;

20-40 (5) court fees and costs, if ordered by the court, for
20-41 a suit filed by an inmate in which an affidavit or unsworn
20-42 declaration of inability to pay costs is filed by the inmate (Sec.
20-43 14.006, Civil Practice and Remedies Code) . . . the lesser of:

20-44 (A) 20 percent of the preceding six months'
20-45 deposits to the inmate's trust account administered by the Texas
20-46 Department of Criminal Justice under Section 501.014, Government
20-47 Code; or

20-48 (B) the total amount of court fees and costs;

20-49 (6) monthly payment for remaining court fees and costs
20-50 after the initial payment for a suit in which an affidavit or
20-51 unsworn declaration of inability to pay costs is filed by the inmate
20-52 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser
20-53 of:

20-54 (A) 10 percent of that month's deposit to the
20-55 inmate's trust account administered by the Texas Department of
20-56 Criminal Justice under Section 501.014, Government Code; or

20-57 (B) the total amount of court fees and costs that
20-58 remain unpaid;

20-59 (7) the following costs not otherwise charged to the
20-60 inmate under Section 14.006, Civil Practice and Remedies Code, if
20-61 the inmate has previously filed an action dismissed as malicious or
20-62 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

20-63 (A) expenses of service of process;

20-64 (B) postage; and

20-65 (C) transportation, housing, or medical care
20-66 incurred in connection with the appearance of the inmate in the
20-67 court for any proceeding; and

20-68 (8) the cost of a special program that a court may
20-69 order a child to attend after a finding that the child committed an

21-1 offense, if ordered by the court (Art. 45.057, Code of Criminal
21-2 Procedure) . . . costs of the program not to exceed \$100.

21-3 SECTION 3.03. Section 101.161, Government Code, is amended
21-4 to read as follows:

21-5 Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of
21-6 a municipal court shall collect:

21-7 (1) a fee for a hearing on probable cause for removal
21-8 of a vehicle and placement in a storage facility if assessed by the
21-9 court (Sec. 2308.457, Occupations Code [~~685.008, Transportation
21-10 Code~~]) . . . \$20; and

21-11 (2) the cost of a special program that a court may
21-12 order a child to attend after finding that the child committed an
21-13 offense, if ordered by the court (Art. 45.057, Code of Criminal
21-14 Procedure) . . . costs of the program not to exceed \$100.

21-15 SECTION 3.04. Subsection (f), Section 2303.155,
21-16 Occupations Code, is amended to read as follows:

21-17 (f) The operator of a vehicle storage facility or
21-18 governmental vehicle storage facility may not charge an additional
21-19 fee related to the storage of a vehicle other than a fee authorized
21-20 by this section or a towing fee authorized by Chapter 2308 [~~Chapter
21-21 643, Transportation Code~~].

21-22 SECTION 3.05. Subsection (c), Section 504.508,
21-23 Transportation Code, is amended to read as follows:

21-24 (c) Proof of eligibility for license plates under this
21-25 section must include a copy of the permit [~~registration~~]
21-26 certificate issued by the Texas Department of Licensing and
21-27 Regulation [~~department~~] for the tow truck.

21-28 SECTION 3.06. Section 643.002, Transportation Code, is
21-29 amended to read as follows:

21-30 Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

21-31 (1) a motor vehicle registered under the single state
21-32 registration system established under 49 U.S.C. Section 14504(c)
21-33 when operating exclusively in interstate or international
21-34 commerce;

21-35 (2) a motor vehicle registered as a cotton vehicle
21-36 under Section 502.277;

21-37 (3) a motor vehicle the department by rule exempts
21-38 because the vehicle is subject to comparable registration and a
21-39 comparable safety program administered by another governmental
21-40 entity;

21-41 (4) a motor vehicle used to transport passengers
21-42 operated by an entity whose primary function is not the
21-43 transportation of passengers, such as a vehicle operated by a
21-44 hotel, day-care center, public or private school, nursing home, or
21-45 similar organization;

21-46 (5) a vehicle operating under a private carrier permit
21-47 issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

21-48 (6) a vehicle operated by a governmental entity; or

21-49 (7) a tow truck, as defined by Section 2308.002,
21-50 Occupations Code.

21-51 SECTION 3.07. Subsection (a), Section 643.051,
21-52 Transportation Code, is amended to read as follows:

21-53 (a) A motor carrier may not operate a commercial motor
21-54 vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road
21-55 or highway of this state unless the carrier registers with the
21-56 department under this subchapter.

21-57 SECTION 3.08. Section 643.053, Transportation Code, is
21-58 amended to read as follows:

21-59 Sec. 643.053. FILING OF APPLICATION. An application under
21-60 Section 643.052 must be filed with the department and accompanied
21-61 by:

21-62 (1) an application fee of \$100 plus a \$10 fee for each
21-63 vehicle requiring registration [~~other than a tow truck or a \$25 fee
21-64 for each tow truck the motor carrier proposes to operate~~];

21-65 (2) evidence of insurance or financial responsibility
21-66 as required by Section 643.103(a); and

21-67 (3) any insurance filing fee required under Section
21-68 643.103(c).

21-69 SECTION 3.09. Subsections (a) and (d), Section 643.057,

22-1 Transportation Code, are amended to read as follows:

22-2 (a) A motor carrier may not operate an additional vehicle
22-3 requiring registration unless the carrier pays a registration fee
22-4 of \$10 for each additional vehicle [~~other than a tow truck or \$25~~
22-5 ~~for each tow truck~~] and shows the department evidence of insurance
22-6 or financial responsibility for the vehicle in an amount at least
22-7 equal to the amount set by the department under Section 643.101.

22-8 (d) The department may not collect more than \$10 in
22-9 equipment registration fees for a vehicle [~~other than a tow truck~~]
22-10 registered under both this subchapter and Chapter 645 [~~or more than~~
22-11 ~~\$25 if the vehicle is a tow truck~~].

22-12 SECTION 3.10. Subsection (c), Section 643.058,
22-13 Transportation Code, is amended to read as follows:

22-14 (c) A motor carrier may renew a registration under this
22-15 subchapter by:

22-16 (1) supplementing the application with any new
22-17 information required under Section 643.056;

22-18 (2) paying a \$10 fee for each vehicle requiring
22-19 registration [~~other than a tow truck or a fee of \$25 for each tow~~
22-20 ~~truck the carrier operates~~]; and

22-21 (3) providing the department evidence of continuing
22-22 insurance or financial responsibility in an amount at least equal
22-23 to the amount set by the department under Section 643.101.

22-24 SECTION 3.11. Subsection (b), Section 643.061,
22-25 Transportation Code, is amended to read as follows:

22-26 (b) A motor carrier applying for registration under this
22-27 section must pay:

22-28 (1) a \$20 fee for each vehicle registered [~~other than a~~
22-29 ~~tow truck or a fee of \$50 for each tow truck~~] under Subsection
22-30 (a)(1);

22-31 (2) a \$10 fee for each vehicle registered [~~other than a~~
22-32 ~~tow truck or a fee of \$25 for each tow truck~~] under Subsection
22-33 (a)(2); and

22-34 (3) application and insurance filing fees the
22-35 department by rule adopts in an amount not to exceed \$100 each.

22-36 SECTION 3.12. Subsection (e), Section 643.253,
22-37 Transportation Code, is amended to read as follows:

22-38 (e) An offense under Subsection (b) [~~or (d)~~] is a
22-39 misdemeanor punishable by a fine of not less than \$200 or more than
22-40 \$1,000 per violation.

22-41 SECTION 3.13. Subdivision (1), Section 1, Chapter 528, Acts
22-42 of the 76th Legislature, Regular Session, 1999 (Article 178d-1,
22-43 Vernon's Texas Civil Statutes), is amended to read as follows:

22-44 (1) "Parking facility," "parking facility owner," and
22-45 "vehicle" have the meanings assigned by Section 2308.002,
22-46 Occupations Code [~~684.001, Transportation Code~~].

22-47 ARTICLE 4. TRANSITION AND EFFECTIVE DATE

22-48 SECTION 4.01. The following provisions of the
22-49 Transportation Code are repealed:

22-50 (1) Subdivision (7), Section 643.001;

22-51 (2) Subsection (d), Section 643.101;

22-52 (3) Section 643.202;

22-53 (4) Section 684.001;

22-54 (5) Section 685.001;

22-55 (6) the heading to Subchapter E, Chapter 643;

22-56 (7) the heading to Chapter 684;

22-57 (8) the headings to Subchapters A, B, and F, Chapter
22-58 684; and

22-59 (9) the heading to Chapter 685.

22-60 SECTION 4.02. As soon as practicable after the effective
22-61 date of this Act, the presiding officer of the Texas Commission of
22-62 Licensing and Regulation shall make the initial appointments to the
22-63 Towing and Storage Advisory Board. The presiding officer shall
22-64 appoint two members to terms expiring February 1, 2009, two members
22-65 to terms expiring February 1, 2011, and three members to terms
22-66 expiring February 1, 2013.

22-67 SECTION 4.03. (a) All rules of the Texas Transportation
22-68 Commission and the Texas Department of Transportation relating to
22-69 the administration of Chapter 2303, Occupations Code, are continued

23-1 in effect as rules of the Texas Commission of Licensing and
23-2 Regulation or the executive director of the Texas Department of
23-3 Licensing and Regulation until superseded by a rule of the Texas
23-4 Commission of Licensing and Regulation or the executive director of
23-5 the Texas Department of Licensing and Regulation. A license issued
23-6 under Chapter 2303, Occupations Code, by the Texas Department of
23-7 Transportation is continued in effect as provided by the law in
23-8 effect immediately before the effective date of this Act. A
23-9 complaint, investigation, contested case, or other proceeding
23-10 pending on the effective date of this Act is continued without
23-11 change in status after the effective date of this Act. An
23-12 inspection or other activity under Chapter 2303, Occupations Code,
23-13 that is conducted by the Texas Transportation Commission or the
23-14 Texas Department of Transportation is considered to be an
23-15 inspection or activity conducted by the Texas Commission of
23-16 Licensing and Regulation or the Texas Department of Licensing and
23-17 Regulation.

23-18 (b) A reference in another law or an administrative rule to
23-19 the powers and duties under Chapter 2303, Occupations Code, of the
23-20 Texas Transportation Commission or the Texas Department of
23-21 Transportation means the Texas Commission of Licensing and
23-22 Regulation or the Texas Department of Licensing and Regulation.

23-23 SECTION 4.04. Not later than March 1, 2008, the Texas
23-24 Commission of Licensing and Regulation shall adopt rules relating
23-25 to an original application for a permit or license under Chapter
23-26 2308, Occupations Code, as added by this Act.

23-27 SECTION 4.05. The Texas Department of Licensing and
23-28 Regulation shall issue an incident management towing permit,
23-29 private property towing permit, consent towing permit, incident
23-30 management towing operator's license, private property towing
23-31 operator's license, or consent towing operator's license to a
23-32 qualified applicant under this section who:

23-33 (1) applies for a license under this section not later
23-34 than June 1, 2008;

23-35 (2) submits to the department the information required
23-36 by rules adopted by the executive director of the department under
23-37 this section; and

23-38 (3) pays the application fee.

23-39 SECTION 4.06. (a) Except as provided by Subsections (b)
23-40 and (c) of this section, this Act takes effect September 1, 2007.

23-41 (b) Except as provided by Subsection (c) of this section,
23-42 Section 2308.504, Occupations Code, as added by this Act, and
23-43 Subchapters C and D, Chapter 2308, Occupations Code, as added by
23-44 this Act, take effect September 1, 2008.

23-45 (c) Section 2308.158, Occupations Code, as added by this
23-46 Act, takes effect September 1, 2009.

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